1 Tammy Hussin, Esq. (Bar No. 155290) Lemberg & Associates, LLC 6404 Merlin Drive 3 Carlsbad, CA 92011 Telephone (855) 301-2100 ext. 5514 thussin@lemberglaw.com 5 Lemberg & Associates, LLC 1100 Summer Street Stamford, CT 06905 Telephone: (203) 653-2250 Facsimile: (203) 653-3424 Attorneys for Plaintiff, 10 Chavonne Browning 11 12 13 UNITED STATES DISTRICT COURT 14 CENTRAL DISTRICT OF CALIFORNIA 15 WESTERN DIVISION 16 Case CV 13-06404 17 Chavonne Browning, 18 Plaintiff. COMPLAINT FOR DAMAGES 19 1. VIOLATION OF FAIR DEBT 20 COLLECTION PRACTICES ACT. VS. 15 U.S.C. § 1692 ET. SEQ; 21 Cross Check, Inc.; and DOES 1-10, 2. VIOLATION OF FAIR DEBT 22 inclusive, COLLECTION PRATICES ACT, CAL.CIV.CODE § 1788 ET. SEO. 23 Defendants. 24 JURY TRIAL DEMANDED 25 26 27 28

COMPLAINT FOR DAMAGES

For this Complaint, the Plaintiff, Chavonne Browning, by undersigned counsel, states as follows:

JURISDICTION

- 1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA"), and the invasions of Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to collect a consumer debt.
 - 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
- 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

- 4. The Plaintiff, Chavonne Browning (hereafter "Plaintiff"), is an adult individual residing in Los Angeles, California, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).
- 5. Defendant, Cross Check, Inc. ("Cross"), is a California business entity with an address of 6119 State Farm Drive, Rohnert Park, California 94928, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

- 6. Does 1-10 (the "Collectors") are individual collectors employed by Cross and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.
 - 7. Cross at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

- 8. The Plaintiff allegedly incurred a financial obligation in the approximate amount of \$1,200.00 (the "Debt") to Rick Case Hyundai (the "Creditor").
- 9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under 15 U.S.C. § 1692a(5).
- 10. The Debt was purchased, assigned or transferred to Cross for collection, or Cross was employed by the Creditor to collect the Debt.
- 11. The Defendants attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. § 1692a(2).

B. Cross Engages in Harassment and Abusive Tactics

12. Within the last year, Cross contacted Plaintiff in an attempt to collect the Debt.

- 13. Cross called Plaintiff at an excessive rate, placing calls to her cellular telephone on a daily basis.
- 14. During each conversation, Plaintiff explained to Cross that she did not have sufficient funds to pay the Debt in full at that time, however offered to make small payments in an effort to cease collection activity.
- 15. Cross refused Plaintiff's proposed payment plan and demanded that Plaintiff repay the Debt in full immediately. Plaintiff requested that Cross stop calling.
- 16. Cross then began calling Plaintiff at her place of employment in an attempt to collect the Debt.
- 17. Plaintiff informed Cross that calls to her workplace were inconvenient and prohibited by the policy of her employer.
- 18. Thereafter, despite having been so informed, Cross continued to call Plaintiff at place of employment, causing Plaintiff great distress and fear that her employment was in jeopardy.
- 19. Plaintiff informed Cross and several occasions that she could not accept the calls at work, and again requested that all the calls cease. Cross stated that it can and will call her any time they want. Cross thereafter continued to call Plaintiff at her place of employment.

<u>COUNT I</u> <u>VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT</u> 15 U.S.C. § 1692, et seq.

- 20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 21. The Defendants contacted the Plaintiff at a place and during a time known to be inconvenient for the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).
- 22. The Defendants contacted the Plaintiff at her place of employment, knowing that the Plaintiff's employer prohibited such communications, in violation of 15 U.S.C. § 1692c(a)(3).
- 23. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.
- 24. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).
- 25. The Defendants used unfair and unconscionable means to collect a debt, in violation of 15 U.S.C. § 1692f.
- 26. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

27. The Plaintiff is entitled to damages as a result of the Defendants' violations.

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT, Cal. Civ. Code § 1788 et seq.

- 28. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 29. The Rosenthal Fair Debt Collection Practices Act, California Civil Code section 1788 *et seq.* ("Rosenthal Act") prohibits unfair and deceptive acts and practices in the collection of consumer debts.
- 30. Cross Check, Inc., in the regular course of business, engages in debt collection and is a "debt collector" as defined by Cal. Civ. Code § 1788.2(c).
- 31. The Defendants caused a telephone to ring repeatedly and engaged the Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).
- 32. The Defendants communicated with the Plaintiff with such frequency as to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).
- 33. The Defendants failed to comply with the provisions of 15 U.S.C. § 1692, et seq., in violation of Cal. Civ. Code § 1788.13(e).
- 34. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

35. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT III INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

- 36. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
- 37. The Restatement of Torts, Second, § 652B defines intrusion upon seclusion as, "One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person."
- 38. California further recognizes the Plaintiff's right to be free from invasions of privacy, thus the Defendants violated California state law.
- 39. The Defendants intentionally intruded upon Plaintiff's right to privacy by continually harassing Plaintiff with above referenced telephone calls.
- 40. The telephone calls made by the Defendants to Plaintiff were so persistent and repeated with such frequency as to be considered, "hounding the plaintiff," and, "a substantial burden to her existence," thus satisfying the Restatement of Torts, Second, § 652B requirement for an invasion of privacy.
- 41. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

- 42. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendants.
- 43. All acts of the Defendants and its agents were committed with malice, intent, wantonness, and recklessness, and as such, the Defendants are subject to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;
- C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C.§ 1692k(a)(3) against the Defendants;
- D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
- E. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);
- F. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent

invasions of privacy and intentional infliction of emotional distress in an amount to be determined at trial for the Plaintiff; G. Punitive damages; and H. Such other and further relief as may be just and proper. TRIAL BY JURY DEMANDED ON ALL COUNTS DATED: August 30, 2013 **TAMMY HUSSIN** By: _ Tammy Hussin, Esq. Lemberg & Associates, LLC Attorney for Plaintiff, Chavonne Browning